

Lowell Zoning Board of Appeals Minutes

October 14, 2021 6:30 P.M.

Note: These minutes are not completed verbatim. For further detail, contact the Division of Development Services, 375 Merrimack Street, Lowell, MA or refer to video recordings available online at www.LTC.org.

Members Present: Member Pech, Member Callahan, Member McCarthy, Member Briere, Member Procope

Members Absent: Chairman Perrin

Others Present: Fran Cigliano, Senior Planner

The following represents the actions taken by the Zoning Board of Appeals at the 10/14/2021 meeting. This meeting was held in the City Council chambers. However, due to the COVID-19 pandemic, attendees had the ability to participate via Zoom as permitted by the Governor's 3/10/2020 emergency order to suspend certain provisions of the Open Meeting Law.

Chairman Pech called the meeting to order at 6:32 PM

I. Continued Business

II. New Business

ZBA-2021-40

Petition Type: **Variances**

Applicant: **James Zorbas**

Property Located at: **44 Rock Street 01854**

Applicable Zoning Bylaws: **Section 6.1.10**

Petition: **James Zorbas has applied to the Lowell Zoning Board of Appeals and the Lowell Planning Board for Special Permit, Site Plan Review, and Variance approval to redevelop the existing lot into an eleven (11) space, approximately 5,400 sq. ft. parking area at 44 Rock Street. The property is located in the UMF zoning district and requires Special Permit approval pursuant to Section 12.6(h) for the proposed use, and Site Plan Review pursuant to Section 11.4 to construct a parking area greater than 4,000 sq. ft. The proposal will also require a Variance from the ZBA pursuant to Section 6.1.10 for the setback from the side yard property line and for any other relief required under the Lowell Zoning Ordinance.**

On behalf:

John Geary, Applicant's Attorney

Paul Campbell, Applicant's Engineer

In favor:

None

In Opposition:

None

Discussion:

G. Procope said that the fact that the applicant is looking to accommodate parking for nearby residents is a benefit. It would improve the neighborhood. The applicant will be required to obtain a stormwater permit. He asked whether the applicant has pursued this.

P. Campbell said that the stormwater team is reviewing their design.

D. McCarthy said that the project had gone before the Planning. He would like ZBA to adopt those same conditions. The applicant clearly identifies the pieces they need to complete. He is really supportive of finding this piece of land close to these developments to develop into off-street parking. Adding landscaping, lighting and fencing raises the bar in that neighborhood. Neighborhood is improving in last few years, and this project adds to the progress.

J. Geary said that the applicant is happy to adopt those conditions.

S. Callahan said that the project makes total sense. The requested relief is minimal.

M. Briere said that the parking plan is vital.

Motion:

D. McCarthy motioned to approve the variance with the following conditions:

1. The applicant shall reconstruct the sidewalks in front of the site to City standards
2. The applicant shall meet all requirements of the Lowell Regional Wastewater Utility (LRWWU)
3. The applicant shall submit a landscaping and lighting plan subject to DPD approval; and
4. Seven (7) of the parking spaces shall be clearly marked for the exclusive use of residents of the 116 & 128 Fletcher Street development.

The motion was seconded by G. Procope and passed unanimously, (5-0).

ZBA-2021-41

Petition Type: **Variances**

Applicant: **Christopher Natale**

Property Located at: **43 Fletcher Street 01854**

Applicable Zoning Bylaws: **Section 6.1.4(d); Section 5.1**

Petition: **Christopher Natale has applied for Site Plan Review and Special Permit approval from the Planning Board and Variance approval from the Zoning Board of Appeals to construct a mixed use building consisting of twenty (20) dwelling units and an approximately 3,442 sq. ft. commercial space on the first floor. The property is in the Urban Mixed Use (UMU) zoning district and requires Site Plan Review under Section 11.4.2, Special Permit approval under Section 12.1.e for the proposed use and under Section 6.1.6(6) to reduce residential and non-residential parking requirements by 50%. The project requires Variance approval from the Zoning Board of Appeals for relief from the off-street parking requirement under Section 6.1.4(d), under Section 5.1 for the proposed Floor Area Ratio and land area per dwelling unit, and for any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

In Favor:

Matt Hamor, Applicant's Engineer
George Theodorou, Applicant's Attorney
Barry Ganek, Applicant's Architect

In Opposition:

None

Discussion:

None

Motion:

S. Callahan said that his question was going to be about the adjacent city parking lot. G. Theodorou explained that they planned to purchase from the city when it becomes available. Makes sense as parking for the commercial portion. S. Callahan said he appreciated the historical inventory documents. S. Callahan believes the project meets the criteria for a variance. A fantastic project.

M. Briere said that this project is exciting and significant. He is proud to be a witness to it. Lowell needs this type of investment. Looks very favorably upon this application.

R. Njoroge said that he agrees with his fellow Board members. Meets criteria for a variance. Asked about commercial parking. GT said that they are looking forward to purchasing the adjacent lot as parking for the commercial space.

G. Procope said that this is an example of the revitalization of Lowell. What is going on in that neighborhood will be a great addition. Great for millennials who are looking to walk around the city. He looks forward to seeing project completed.

D. McCarthy asked G. Theodorou to read over the conditions of approval from the Planning Board decision. D. McCarthy would like to adopt the same conditions for the ZBA approval.

D. McCarthy asked about the balconies on the north easterly side of the building. M. Hamor clarified where the balconies would be located.

V. Pech said that this is an amazing project. We need housing in the city.

Motion:

D. McCarthy motioned to approve the variances with the following conditions:

1. The applicant shall submit revised floor plans that accommodate development on the northerly side of the building;
2. The applicant shall submit revised flood plans that show the location of bike racks and e-bikes;
3. The applicant shall work with the City Council to seek permission to add a loading area in front of the subject property;
4. The landlord shall provide parking to tenants in the HCID garage (40 residential spaces and 9 commercial);

5. The applicant shall submit revised floor plans showing the trash/recycling/waste collection room;
6. The applicant shall submit a TDM plan to outline alternative transportation options that will compensate for the lack of on-site parking, subject to approval by DPD staff;
7. The applicant shall receive final approval from the City's stormwater team; and
8. The applicant is subject to Historic Board review.

The motion was seconded by S. Callahan and passed unanimously, (5-0).

ZBA-2021-42

Petition Type: **Variances; Special Permit**

Applicant: **Smyth Cannabis Co.**

Property Located at: **683 Rogers Street 01852**

Applicable Zoning Bylaws: **Section 6.3.2(d); Section 6.3.2.9(d)**

Petition: **Smyth Cannabis Co. has applied to the Zoning Board of Appeals for an internally illuminated sign at 683 Rogers Street. The property is located in the Regional Retail zoning district, and requires a Variance under Section 6.3.2.18.(d), and Special Permit under Section 6.3.2.9.(d), and any other relief required under the Lowell Zoning Ordinance.**

In behalf:

Brandon Currier, Applicant's Representative

In Favor:

None

In Opposition:

None

Discussion:

D. McCarthy asked the applicant to discuss the lighting of the sign. He wants to make sure it won't be a strong, glaring light.

B. Currier said that the lighting is subtle, won't be too bright. Hours of operation of the business aren't yet determined.

S. Callahan complimented the sign design. Discussed standard conditions for internally illuminated signs with respect to lighting. He thinks they should keep standard language.

Motion:

D. McCarthy motioned to approve the variance with the following conditions:

1. The hours of illumination shall be 1 hour before sunrise to 1 hour after closing, but no later than 12AM.

The motion passed unanimously, (5-0).

D. McCarthy motioned to approve the special permit with same conditions. The motion was seconded by G. Procope and passed unanimously, (5-0).

ZBA-2021-43

Petition Type: **Variances**

Applicant: **78 Middlesex LLC**

Property Located at: **78 Middlesex Street 01852**

Applicable Zoning Bylaws: **Section 6.1**

Petition: **78 Middlesex Street LLC has applied to the Zoning Board of Appeals to redevelop the existing building at 78 Middlesex Street into a 26 unit residential structure. The subject property is located in the Downtown Mixed-Use (DMU) zoning district. The project requires Site Plan Review approval per Section 11.4, and Special Permit approval per Article 12.1(e) and Section 11.3.1 for the use from the Planning Board. The project also requires Variance approval per Section 6.1 for relief from the off-street parking requirement, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

John Geary, Applicant's Attorney

Brian Geaudreau, Applicant's Engineer

Alex Yoon, Applicant's Architect

In Favor:

None

In Opposition:

None

Discussion:

M. Briere said that the plan is a welcome and innovative repurpose of this building that further complements and advances goals of the JAM plan.

R. Njoroge said that this is another well-thought out project. Very nice design. Has been vacant, so will benefit city. Close to commuter rail. Impressed with micro mobility plan and landscaping plan. No objections to the petition.

G. Procope thanked the applicant for the detailed presentation. He recently read an article in Boston Globe saying that Lowell is coming back. It is projects like these that show what good projects can do for the city. He had questions but the presentation answered them. He is in favor.

D. McCarthy complemented the presentation and project. The project takes building that is sorely in need of rejuvenation and transforms it completely beyond what we thought could take place there. They are keeping the pool – a wonderful amenity, as well as adding a courtyard. He asked about how waste receptacles will enter/exit building. A. Yoon clarified. D. McCarthy would like to see them include the 4 conditions from the Planning Board approval into the ZBA decision.

D. McCarthy asked whether this was the second development for this developer in Lowell. JG. Geary said he has done a few others and has a good track record.

S. Callahan agrees with the fellow board members. He is blown away by the amenities. They are keeping the pool, adding the courtyard and outdoor space. His only concern was waste management, but the applicant clarified this.

V. Pech agrees, the building is modern and innovative. Will serve professional young people. He is in support.

D. McCarthy motioned to approve the variances with the following conditions:

1. The applicant shall submit a landscaping plan subject to DPD approval;
2. The applicant shall screen the trash storage area;
3. The applicant shall provide a written Transportation Demand Management Plan; and
4. The applicant shall work with the Lowell Regional Wastewater Utility to finalize the stormwater design and obtain any required permits.

G. Procope seconded the motion and it passed unanimously, (5-0).

Motion:

ZBA-2021-44

Petition Type: **Variances**

Applicant: **Steven Nagle**

Property Located at: **65 Columbia Road 01854**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **Steven Nagle has applied to the Zoning Board of Appeals for an addition to his single family home at 65 Columbia Road. The property is located in the Traditional Single Family zoning district, and requires one variance for maximum Floor-Area-Ratio (FAR) under Section 5.1 and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

Steve Nagle, Applicant

In Favor:

None

In Opposition:

None

Discussion:

R. Njoroge said that the project is easy to support.

G. Procope does not think there is an issue. He will vote in favor.

D. McCarthy clarified required front yard/side yard setbacks for corner lots. He said that the addition is small and can easily see variance being granted.

V. Pech agreed with his colleagues.

Motion:

D. McCarthy motioned and S. Callahan seconded the motion to approve the petition. The motion passed unanimously, (5-0).

III. Other Business:

Variance Extension: 116 & 128 Fletcher Street 01854

The applicant is seeking a one-year extension to a variance originally granted on October 17, 2019 and extended on September 28, 2020. The applicant received Site Plan Review and Special Permit approval from the Planning Board on October 4, 2021.

On Behalf:

John Geary, Applicant's Attorney

Discussion:

D. McCarthy asked about the previously listed conditions of approval. They needed to secure additional off street parking spaces, complete a 6 month administrative review, and work with DPD on TDM options. Are those met?

J. Geary said that they are happy to incorporate the conditions. We do provide required off street parking. Close to the Hamilton Canal Garage and walking distance to Market Basket. They are in walking distance to the Gallagher Terminal. There will be a parking space for each unit. He does not think TDM solutions are as important but they are still happy to incorporate as a condition. They do include a bike rack on the site plan.

D. McCarthy asked if there was any movement in working with DPD on a TDM plan. He would like to see conditions carry over.

S. Callahan said that he does not have any concerns.

M. Briere said that they need to keep the project alive and that he supports the extension.

R. Njoroge said he has no issues granting the extension. R. Njoroge said that he has no issues granting the extension, especially where there is a new owner.

V. Pech said that this is a vital and important project that he would like to keep moving forward.

Motion:

D. McCarthy motioned to grant variance extensions with the two previously adopted conditions. The motion was seconded by S. Callahan and passed unanimously (5-0).

III. Other Business

Minutes for Approval:

September 27, 2021

D. McCarthy motioned and M. Briere seconded the motion to approve the minutes. The motion passed unanimously, (5-0).

IV. Adjournment

D. McCarthy motioned to adjourn the meeting, seconded by S. Callahan, and the motion passed unanimously, (5-0). The time was 8:45PM.